

REMARKS/ARGUMENTS

Reconsideration of this application in view of the foregoing amendments and the following remarks is respectfully requested.

With this amendment, claims 2, 36 and 43-46 remain in the application.

Claim Rejections 35 USC § 112 and 35 USC §102

The Examiner has withdrawn her previous rejections of the claims but argues that the term “based on” in claim 2, in relation to 2'-deoxy-2'-fluoro-β-D-arabinonucleotides, has resulted in further ambiguity and has broadened the scope of the claims. This precipitated the rejections in the present action pursuant to paragraphs 35 U.S.C. 102 and 112. Specifically, the Examiner interpreted “based on” as including all nucleotides that could be synthesized from 2'-deoxy-2'-fluoro-β-D-arabinonucleotides. Further, the Examiner also interprets claim 2, as a result of the term “based on”, to include any oligonucleotide that is uniformly sugar modified and has one 2'-deoxy-2'-fluoro-β-D-arabinonucleotides.

Applicant thanks the Examiner for her time in speaking with the Applicant over the telephone in which the term “based on” was addressed. The Examiner indicated that replacing this term with the term “consisting of” appeared to address the new rejections raised in the Office Action of September 26, 2005.

Applicant has amended claim 2 to replace “based on” with --consisting of--. Applicant respectfully submits that this amendment remedies the broadening effect of the term “based on” and renders the Examiner's new grounds of rejection moot. As amended therefore, claim 2 is novel and inventive over the art presently and previously cited as none of the art, since, none of the cited references disclose a uniformly sugar modified oligonucleotide *consisting of* 2'-deoxy-2'-fluoro-β-D-arabinonucleotides.

Applicant amended claim 43 to depend from claim 36 so that the R moiety now finds antecedent basis therein.

Serial No.: 09/719,870
Responsive to Office Action dated September 26, 2005
Amendment Filed: December 15, 2005

Applicant also amended claim 46 to properly depend from claim 44 (instead of cancelled claim 4).

Claims 2, 36 and 44-45 were rejected under 35 U.S.C. § 102(b).

Applicants respectfully submit that the amendment to the claims, discussed above, have obviated this rejection, which should therefore be withdrawn.

It is submitted, therefore, that the claims are in condition for allowance. Reconsideration of the Examiner's rejections is respectfully requested.

In the event that there are any questions concerning this amendment or the application in general, the Examiner is respectfully urged to telephone the undersigned so that prosecution of this application may be expedited.

Date: 12/15/05

Customer No.: 50828

Respectfully submitted,



David S. Resnick (Reg. No. 34,235)
NIXON PEABODY LLP
100 Summer Street
Boston, MA 02110-2131
(617) 345-6057